

IC 36-8-15

Chapter 15. Public Safety Communications Systems and Computer Facilities Districts

IC 36-8-15-1

Application of chapter

Sec. 1. This chapter applies to a county having:

- (1) a consolidated city; or
- (2) a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000).

However, sections 9.5, 15, 16, 17, and 18 of this chapter apply only to a county having a consolidated city.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.1; P.L.173-1990, SEC.1; P.L.12-1992, SEC.174; P.L.170-2002, SEC.164.

IC 36-8-15-2

"Board" defined

Sec. 2. As used in this chapter, "board" means the following:

- (1) In a county having a consolidated city, a board established by and operated as set forth in an ordinance of the city-county legislative body.
- (2) In a county not having a consolidated city, the board of commissioners.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.2; P.L.2-1989, SEC.49.

IC 36-8-15-3

"Communications system" defined

Sec. 3. As used in this chapter, "communications system" means any system:

- (1) designed for the transmission of writing, signs, signals, pictures, data, and sounds of all kinds by any means, device, or apparatus; and
- (2) intended for use only by public safety agencies for public purposes.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-4

"Computer" defined

Sec. 4. As used in this chapter, "computer" means computer hardware and computer software.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-5

"District" defined

Sec. 5. As used in this chapter, "district" refers to the public communications systems and computer facilities district created by section 7 of this chapter.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-6

"Facility" defined

Sec. 6. As used in this chapter, "facility" means computers and communication systems or any necessary appurtenances and improvements thereto, including real and personal property required to house such facilities and all equipment, apparatus, devices, and instrumentalities required for the proper operation of the facility or facilities.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-7

Creation of district

Sec. 7. (a) This subsection applies to a county having a consolidated city. The _____ (name of consolidated city) _____ public safety communications systems and computer facilities district is created in the county as a special taxing district of the consolidated city. The territory of the district includes the entire county.

(b) This subsection applies to a county not having a consolidated city. The _____ (name of county) _____ public safety communications systems district may be created in the county as a special taxing district by an ordinance adopted before July 1 of a year by the county legislative body. The territory of the district includes the unincorporated area of the county, plus any municipality in the county in which the legislative body before July 1 of a year adopts an ordinance to join the district and to have its public safety agencies served by the district.

(c) This subsection applies to a county not having a consolidated city. The legislative body of any township in the county may, by adopting a resolution before July 1 of a year, authorize a township agency to be served by the district.

(d) An ordinance or resolution adopted under subsection (b) or (c) may be rescinded before July 1 of a year.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.3.

IC 36-8-15-8

Purposes

Sec. 8. The purposes of the district are the following:

(1) To provide and maintain modern, dependable, and efficient public safety communications systems within the district for the purpose of promoting the expeditious delivery of public services to the residents and taxpayers throughout the district in order to assure the public health, safety, morals, and general welfare.

(2) In a county having a consolidated city, to provide computers for the efficient functioning of governmental offices for the benefit of the residents and taxpayers throughout the district.

These purposes are public purposes for which public money may be spent and private property may be provided. The general assembly finds and declares that the facilities needed to accomplish these purposes are local public improvements.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.4.

IC 36-8-15-9

Governing body; powers; establishment of a public safety communications commission

Sec. 9. (a) The board is the governing body of the district.

(b) The board may do the following:

- (1) Finance, purchase, acquire, lease, erect, install, construct, equip, upgrade, operate, and maintain facilities.
- (2) Sue, be sued, plead, and be impleaded.
- (3) Condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with facilities.
- (4) Acquire real or personal property by gift, devise, or bequest, and hold, use, or dispose of that property for purposes authorized by this chapter.
- (5) Design, order, contract for, construct, and equip any facilities.
- (6) Employ architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for the financing, erection, and equipping of facilities.
- (7) Make and enter into all contracts and agreements necessary or incidental to accomplishing the purposes of the district.

(c) In a county not having a consolidated city, the board shall establish a public safety communications commission representing the public safety agencies that are served by the district. The members of this commission are:

- (1) one (1) person appointed by the county executive;
- (2) one (1) person appointed by the county fiscal body;
- (3) one (1) person appointed by the executive of each city in the district; and
- (4) the county sheriff.

Members serve for four (4) year terms. The county legislative body shall provide by ordinance for the length of each initial term so that the result is staggered terms for commission members.

(d) In a county not having a consolidated city, the chief law enforcement and fire safety officers of each participating unit shall constitute a technical advisory committee to advise the board and the public safety communications commission upon request.

(e) In a county not having a consolidated city, the commission established under this section shall operate any public safety communications system established under this chapter. In a county having a consolidated city, the board shall operate any public safety communications system established under this chapter.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.5; P.L.2-1989, SEC.50.

IC 36-8-15-9.5

Combined or shared communications systems

Sec. 9.5. (a) This section applies to a county having a consolidated city.

(b) The communications system may be combined or shared with the public service radio system.

(c) The board may do the following for the combined or shared

system:

- (1) Authorize expenditures from the district's operational funds.
- (2) Exercise all of the powers listed in section 9 of this chapter.
- (d) The board may not do the following for the combined or shared

system:

- (1) Authorize expenditures for facilities or services related only to public service radio.
- (2) Have authority over planning or other decisions for public service radio.

As added by P.L.173-1990, SEC.2.

IC 36-8-15-10

Resolution stating necessity and purpose; plans and specifications; estimated cost

Sec. 10. Whenever the board determines that:

- (1) it is necessary for the general welfare of the persons residing within the district; and
- (2) it will be of public utility and benefit to the property in the district to undertake and carry out any project of purchasing, acquiring, erecting, installing, constructing, equipping, or upgrading of facilities within the district;

the board shall adopt a resolution stating the necessity of the project and the board's purpose in proceeding with the project. The board, as a part of the resolution, shall adopt the plans and specifications proposed for the entire project and shall determine the estimated cost of all work and all acquisitions necessary to carry out the project.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-11

Resolution; public inspection; notice

Sec. 11. (a) The resolution and all matters included with the resolution shall be filed and open to inspection by the public at the office of the board.

(b) The board shall give notice of:

- (1) the adoption and general purport of the resolution;
- (2) the fact that the resolution and included material have been prepared and are on file in the office of the board and may be inspected; and
- (3) the fact that on a date named, the board will receive and hear objections from any persons interested in or who will be affected by the proposed project.

The notice shall be published in accordance with IC 5-3-1.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-12

Objections; hearing

Sec. 12. At or before the time fixed for the hearing designated in the notice published under section 11 of this chapter, any person interested in or who will be affected by the proposed project may file with the board a written objection against the proposed project, in whole or in part. At the hearing the board:

- (1) shall hear all persons who are interested in the proceedings;
- (2) shall finally determine whether the proposed project, in whole or in part, is necessary for the general welfare of the persons residing within the district and will be a public utility and benefit to the property in the district; and
- (3) may confirm, modify, or rescind the resolution.

The decision shall be entered in the records of the board.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-13

Letting of contracts; modification of projects

Sec. 13. After final approval of the resolution by the board, the board shall proceed with the project, or any part thereof, and shall let all contracts, upon separate plans and specifications, in accordance with IC 5-22, IC 36-1-10, IC 36-1-12, and IC 36-9-13. The projects authorized may be modified by the board if it considers modification necessary to carry out the purpose of the resolution, so long as the modifications do not increase the estimate of the total cost of the project as adopted in the final resolution. All other changes must be processed as new resolutions.

As added by P.L.82-1985, SEC.3. Amended by P.L.2-1989, SEC.51; P.L.49-1997, SEC.82.

IC 36-8-15-14

Special benefit tax

Sec. 14. All taxable property located within the district is subject to a special benefit tax for the purpose of providing money to pay the total cost of the project, including all necessary incidental expenses of programming, planning, and designing the project. The tax shall constitute the amount of benefits resulting to all of that property from the project and shall be levied as provided in this chapter.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-15

Bonds; issuance; amount

Sec. 15. (a) For the purpose of raising money to pay for any real or personal property to be acquired for a project within the district or to pay for the purchasing, acquiring, erecting, installing, constructing, equipping, or upgrading of a facility within the district, and in anticipation of the special benefit tax, the board may cause bonds to be issued in the name of the consolidated city (in counties having a consolidated city) for the benefit of the district. In a county having a consolidated city, the bonds shall be issued in accordance with IC 36-3-5-8.

(b) The bonds may be in an amount not to exceed the estimated cost of all real and personal property to be acquired and the estimated cost of the facilities, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction and all costs of programming, planning, and designing the facilities. The expenses to be covered in the amount of the bond issue

include all expenses of every kind actually incurred preliminary to the acquisition of property and the installation of the facilities, such as the cost of necessary records, engineering expenses, publication of notices, salaries, the letting of contracts, and the sale of bonds.

(c) The bonds issued may not exceed the estimates for the project as determined in the resolution adopted by the board under section 12 of this chapter.

(d) Any surplus of bond proceeds remaining after all costs and expenses have been fully paid shall be paid into the public communications systems and computer facilities district bond fund. The board may appropriate the proceeds of the bonds.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.6.

IC 36-8-15-15.1

Lease of facilities; financing; hearings; notice; objections

Sec. 15.1. (a) A board may enter into a lease of any facility that may be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years. The lease may provide for payments to be made by the board from special benefits taxes levied under section 14 of this chapter and any other revenue available to the board, or any combination of these sources.

(b) A lease may provide that payments by the board to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the board only after a public hearing by the board at which all interested parties are given the opportunity to be heard. Notice of the hearing must be given by publication in accordance with IC 5-3-1. After the public hearing, the board may adopt a resolution authorizing the execution of the lease on behalf of the unit if the board finds that the service to be provided throughout the term of the lease will serve the public purpose of the unit and is in the best interests of the unit's residents. A lease approved by a resolution of the board must be approved by an ordinance of the fiscal body of the unit.

(d) Upon execution of a lease providing for payments by the board in whole or in part from the levy of special benefits taxes under section 14 of this chapter and upon approval of the lease by the fiscal body, the board shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be. Upon the filing of the

petition, the county auditor shall immediately certify a copy of it, together with any other data necessary in order to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the district, which must be not less than five (5) or more than thirty (30) days after the time of the hearing is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the fiscal body, the board, and the first fifty (50) petitioners on the petition by a letter signed by the commissioner or deputy commissioner of the department and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the payments under it are fair and reasonable, is final.

(e) A board entering into a lease that is payable from revenues or other available funds of the board may:

- (1) pledge the revenue to make payments under the lease as provided in IC 5-1-14-4; and
- (2) establish a special fund to make the payments.

Lease rentals may be limited to money in the special fund so that the obligations of the board to make the lease rental payments are not considered a debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(f) Except as provided in this section, no approvals of a governmental body or an agency are required before the board enters into a lease under this section.

(g) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease. However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or to enjoin performance must be brought within thirty (30) days after the decision of the department.

(h) If a board exercises an option to buy a leased facility from a lessor, the board may subsequently sell the leased facility, without regard to any other statutes, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the board through an auction, appraisal, or arms length negotiation. The board shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. An action to contest the sale must be brought within fifteen (15) days after the hearing.

As added by P.L.2-1989, SEC.52. Amended by P.L.90-2002, SEC.499.

IC 36-8-15-15.2

Persons authorized to lease facilities

Sec. 15.2. (a) Any of the following persons may lease facilities referred to in section 15.1 of this chapter to a board:

- (1) A not-for-profit or for-profit corporation organized under

Indiana law or admitted to do business in Indiana.

(2) An authority established under IC 36-9-13.

(b) Notwithstanding any other law, a lessor under this section and section 15.1 of this chapter is a qualified entity for purposes of IC 5-1.4-1-10.

As added by P.L.2-1989, SEC.53.

IC 36-8-15-16

Bonds; limitation on total issue; nature of bonds

Sec. 16. (a) The total issue of bonds under section 15 of this chapter, for purposes of the district, including bonds already issued or to be issued, may not exceed one percent (1%) of the adjusted value of the taxable property within the district, as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void.

(b) Bonds issued under section 15 of this chapter are not, in any respect, corporate obligations or indebtedness of the consolidated city but constitute an indebtedness of the district. The bonds and interest on them are payable only out of revenues of the district. Bonds must recite these terms upon their face.

As added by P.L.82-1985, SEC.3. Amended by P.L.6-1997, SEC.214.

IC 36-8-15-17

Proceeds; disposition; public communications systems and computer facilities district bond fund

Sec. 17. All proceeds from the sale of bonds issued under section 15 of this chapter shall be kept as a separate and specific fund to be known as the public communications systems and computer facilities district bond fund. The bond fund shall be used to pay for the cost of acquisition of real and personal property, the cost of the installation of the facilities, and all costs and expenses incurred in connection therewith, and no part may be used for any other purpose. The bond fund shall be deposited at interest with a depository or depositories of other public funds of the consolidated city, and all interest collected on it belongs to the bond fund.

As added by P.L.82-1985, SEC.3.

IC 36-8-15-18

Counties having consolidated cities; special property tax; disposition of revenue; public communications systems and computer facilities district revenue fund

Sec. 18. (a) This section applies to a county having a consolidated city.

(b) For the purpose of raising money to pay off bonds issued under section 15 of this chapter and any interest on them, the county fiscal body may levy each year a special tax upon all of the property located within the district, in such manner as to meet and pay the principal of the bonds as they severally mature, together with all accruing interest on them. Other revenues and funds may be annually allocated by statute or ordinance to be applied to reduction of the bonds and their interest for the next succeeding year, but to the extent that money on hand is insufficient for payments required in the next succeeding year,

the special tax shall be levied.

(c) The tax collected and all other allocated money shall be accumulated and kept in a separate fund to be known as the public communications systems and computer facilities district revenue fund, and shall be applied to the payment of the district bonds and interest as they severally mature and fiscal agency charges for making such payments and to no other purposes. All accumulations may be deposited, at interest, with one (1) of the depositories of other funds of the consolidated city, and all interest collected belongs to the fund.

As added by P.L.82-1985, SEC.3. Amended by P.L.225-1986, SEC.7.

IC 36-8-15-19

Operational funding; ad valorem property tax; funding by distribution under IC[nb]6-3.5-6-17 in lieu of tax; election by ordinance; adjustment of property tax limits; reduction of tax of units joining or withdrawing from district

Sec. 19. (a) This subsection applies to a county not having a consolidated city. For the purpose of raising money to fund the operation of the district, the county fiscal body may impose, for property taxes first due and payable during each year after the adoption of an ordinance establishing the district, an ad valorem property tax levy on property within the district. The property tax rate for that levy may not exceed five cents (\$0.05) on each one hundred dollars (\$100) of assessed valuation.

(b) This subsection applies to a county having a consolidated city. The county fiscal body may elect to fund the operation of the district from part of the certified distribution, if any, that the county is to receive during a particular calendar year under IC 6-3.5-6-17. To make such an election, the county fiscal body must adopt an ordinance before September 1 of the immediately preceding calendar year. The county fiscal body must specify in the ordinance the amount of the certified distribution that is to be used to fund the operation of the district. If the county fiscal body adopts such an ordinance, it shall immediately send a copy of the ordinance to the county auditor.

(c) Subject to subsections (d), (e), and (f), if an ordinance or resolution is adopted changing the territory covered by the district or the number of public agencies served by the district, the local government tax control board shall, for property taxes first due and payable during the year after the adoption of the ordinance, adjust the maximum permissible ad valorem property tax levy limits of the district and the units participating in the district.

(d) If a unit by ordinance or resolution joins the district or elects to have its public safety agencies served by the district, the local government tax control board shall reduce the maximum permissible ad valorem property tax levy of the unit for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amount budgeted by the unit for public safety communication services in the year in which the ordinance was adopted. If such an ordinance or resolution is adopted, the district shall refer its proposed budget, ad valorem property tax levy, and property tax rate for the following year to the board, which

shall review and set the budget, levy, and rate as though the district were covered by IC 6-1.1-18.5-7.

(e) If a unit by ordinance or resolution withdraws from the district or rescinds its election to have its public safety agencies served by the district, the local government tax control board shall reduce the maximum permissible ad valorem property tax levy of the district for property taxes first due and payable during the year after the adoption of the ordinance or resolution. The reduction shall be based on the amounts being levied by the district within that unit. If such an ordinance or resolution is adopted, the unit shall refer its proposed budget, ad valorem property tax levy, and property tax rate for public safety communication services to the board, which shall review and set the budget, levy, and rate as though the unit were covered by IC 6-1.1-18.5-7.

(f) The adjustments provided for in subsections (c), (d), and (e) do not apply to a district or unit located in a particular county if the county fiscal body of that county does not impose an ad valorem property tax levy under subsection (a) to fund the operation of the district.

As added by P.L.225-1986, SEC.8. Amended by P.L.32-1986, SEC.9; P.L.6-1997, SEC.215.